HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPs No. : 170 of 2005 alongwith CWP No.251 of 2005, CWP No.252 of 2005 & CWP No.1231 of 2005.

Reserved on: 2.7.2007.

Decided on: 12.7.2007.

CWP No.170 of 2005:

Jaswinder Singh and others. …… Petitioners.

Versus

State of H.P. and others. ……Respondent.

CWP No.251 of 2005:

Bhartiya Education Society and another ……..Petitioners.

Versus

State of H.P. and others …….Respondents.

CWP No.252 of 2005:

Bhartiya Education Society and another ……..Petitioners.

Versus

State of H.P. and others …….Respondents.

CWP 1231 of 2005:

Rakesh Kumar and others ……..Petitioners.

Versus

State of H.P. and others …….Respondents.

Whether reporters of local newspapers may be allowed to see the judgment? Yes.

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Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice V.K. Ahuja, Judge.

Whether approved for reporting? Yes.

CWP No.170 of 2005:

For the petitioners: Mr.Dushyant Dadwal, Advocate.
For respondent No.1: Mr.M.S. Chandel, Advocate General, with Mr.R.M. Bisht, Deputy Advocate General.
For respondent No.2: Mr.Janesh Mahajan, Central Government Counsel.
For respondent No.3: Mr.Bimal Gupta, Advocate.
For respondent No.4: Mr.Neel Kamal Sood and Mr.J.L. Bhardwaj, Advocates,
For respondent No.5: Mr.Lovneesh Kanwar, Advocate.

CWP No.251 of 2005:

For the petitioners: Mr.Neel Kamal Sood and Mr.J.L. Bhardwaj, Advocates.
For respondents No.1 & 3: Mr.M.S. Chandel, Advocate General, with Mr.R.M. Bisht, Deputy Advocate General.
For respondent No.2: Mr.Lovneesh Kanwar, counsel for respondent No.2.
For respondent No.4: Mr.Bimal Gupta, counsel for respondent No.4.

CWP No.252 of 2005:

For the petitioners: Mr.Neel Kamal Sood & Mr.J.L. Bhardwaj, Advocates.
For respondents No.1&3: Mr.M.S. Chandel, Advocate General, with Mr.R.M. Bisht, Deputy Advocate General.
For respondent No.2: Mr.Lovneesh Kanwar, Advocate.
For respondent No.4: Mr.Bimal Gupta, Advocate.

CWP 1231 of 2005:

For the petitioners: Mr.Anand Sharma, Advocate.
For respondent No.1: Mr.M.S. Chandel, Advocate General, with Mr.R.M. Bisht, Deputy Advocate General.
For respondent No.2: Mr.Janesh Mahajan, Central Government Counsel.
For respondent No.4: Mr.Neel Kamal Sood & Mr.J.L. Bhardwaj, Advocates.
For respondent No.5: Mr.Lovneesh Kanwar, Advocate.

Per V.K. Ahuja, J.:

This judgment shall dispose of the writ petitions detailed above by common judgment.

2. The facts of case No.170 of 2005 are that petitioners numbering 58 have filed the writ for directions to respondents No.1 and 5 to allow the

petitioners to appear in the examination of JBT in a manner that the qualifying degree/diploma is accorded with the sessions concluded in the year 2005.

3. Briefly stated the facts of the case are that the petitioners are students of Rameshwari Teacher Training Institute, Upper HPSEB Colony, Sarabai, Bhuntar, District Kullu, which is managed by respondent No.4. The petitioners were admitted to the JBT course for the sessions 2003-04. Respondent No.4 was granted recognition by National Council for Teacher Education-respondent No.3 (hereinafter to be referred to as NCTE) for the purpose of conducting JBT course of two years duration commencing from the academic session 2003-04. It was alleged that the recognition was granted under the provisions of National Council for Teacher Education Act, 1993, which also vests powers in the Council for ascertaining whether recognized institutions are functioning in accordance with the provisions of the Act. The Act also provides the procedure for filing an application to the Regional Committee for recognition and lays down the manner in which the recognition can be granted. It also provides that the institute should have adequate financial resources, accommodation, library, qualified staff etc. as may be required.

4. It was alleged that recognition was granted to respondent No.4 for running the Institute which recognition was subject to the condition that the affiliating university shall ensure that the required number of faculty members was appointed etc. The petitioners were allegedly admitted to the course for the academic sessions 2003-05 and they started attending classes from the middle of May, 2003. The petitioners submitted that a notice was published in the newspapers in which it was stated that for the sessions 2003-04, the entrance test would be held on 15.2.2004. The petitioners appeared in the test, paid their tuition fee and were given regular admission and they were fulfilling the eligibility

criteria. The petitioners also started attending the classes and they were informed that respondent No.4 is an institute which is regularly recognized by NCTE. However, they were surprised to learn that respondent No.5 had not granted affiliation to respondent No.4 and as such no examination was held. They also referred to an earlier decision in CWP No.549 of 2004. During the period, the petitioners were admitted, respondent No.4 had given an impression that the Institute is recognized under the provisions of the Act and they have complied with the statutory requirements of the Act. The petitioners were aggrieved by the action of the respondents No.1 and 5 in not taking any examination in the JBT course for the academic sessions 2003-05 and withholding the petitioners from appearing in the qualifying examination for the JBT course is illegal, arbitrary and is in violation of Article 14 of the Constitution. Hence the writ petition filed by the petitioners.

5. This judgment shall also dispose of writ petition No.1231 of 2005 filed by four petitioners making similar allegations as in CWP No.170 of 2005 and praying for similar directions.

6. This judgment shall also dispose of writ petition No.251 of 2005 filed by respondent No.4-Society praying for direction to respondent No.5 to grant affiliation to the petitioner-Institute for the next sessions i.e. 2004-06 and 2005-07 and for direction to respondent No.1 and 5 to send the selected candidates for two years JBT training courses for these sessions. In the alternative, they prayed that the petitioner-Society be allowed to conduct its own entrance test and fill up the seats for the sessions mentioned above. The prayer was made as against respondent No.5 Board for sponsoring the students latest by 31 January of every year, failing which, the petitioner should be allowed to start admission at its own level for the JBT course.

7. This judgment shall also dispose of another writ petition No.252 of 2005 filed by the respondent No.4/Institute as against the respondents named above praying for a direction to respondents No.1 and 5 to grant affiliation to the petitioner-Institute for the session 2004-06 alleging that the Institute had been granted recognition by NCTE and it fulfills all the conditions, but since no affiliation was being granted by the respondents, the petitioner had prayed for directions in this regard.

8. In reply filed to CWP No.170 of 2005 by respondent No.5, it has been pleaded that for the grant of affiliation, the institution has to apply for affiliation on or before 31st May and with late fee the last date is 30th June. However, respondent No.4 applied for affiliation for the sessions 2003-04 on 20th November and since the application was not within time, the application was returned to respondent No.4 alongwith documents vide letter dated 19.1.2004, Annexure R-5/1. But respondent No.4 never applied again. In the year 2002, the Government had made a Committee to look to the admissions and respondent No.4, who participated in the meetings was told that he will not admit the students without the permission of the Government. However, respondent No.4 issued a publication on 15.1.2004 vide Annexure R-II calling for applications without seeking affiliation from the Board. He was informed vide Annexure R-5/3 that he will be responsible for irregular admission for the sessions 2003-04 since the institution was not affiliated with respondent No.5 and his application has already been rejected. It was pleaded that the recognition by the NCTE was only for the year 2003-04. It was also pleaded that there are certain rules and guidelines under which the affiliation can be granted to an institution, but the case of respondent No.4 was returned to him, vide Annexure R-5/6. Respondent No.4 again applied on 21.2.2004 and was again

informed vide Annexure R-5/7 dated 4.3.2004 that his case was time barred for the session of 2003-04. Respondent No.4 advertised in certain newspaper on 15.1.2004 seeking admission for JBT course for the session 2003-04 on its own without reference to the Government or seeking its approval.

9. Similar reply was filed by respondent No.1, who also pleaded that respondent No.4 was not at all authorised to admit any candidate on its own and the admission made by respondent No.4 was in contravention of the terms of recognition and affiliation. They also pleaded that respondent No.4 was not authorized to issue any notice for inviting any application or to conduct the test at his own level and, therefore, there was no question of the petitioners being allowed to appear in the examination.

10. In reply by respondent No.3, they pleaded that the institution was initially recognised for 50 seats of JBT for the sessions 2000-01 vide Annexure R-4/1 dated 17.7.2000 and for additional 50 seats from sessions 2003-04 vide Annexure R-4/6 dated 24.10.2003. It was pleaded that after the recognition/affiliation, admission and examination of institution is to be done by the State Government as per its policy.

11. In reply by respondent No.4, they pleaded that the respondent was granted recognition by the NCTE for the purpose of conducting JBT course of two years duration. The intake capacity, which was initially 50, was increased to 200 students only from 2003 and before increasing the capacity, a team from the NCTE had inspected the institute and they had recommended the institute having sufficient infrastructure. They also pleaded that the students who were admitted for the academic sessions 2003-05 had started attending classes from the middle of May, 2004. They pleaded that at no point of time, they had told the petitioners that the affiliation by respondent No.5 has been granted to the

institute, but it was told to the petitioners that the institute of respondent No.4 is recognized by respondent No.3 and the process for affiliation is pending. They pleaded that the recognition was granted by respondent No.3 w.e.f. 17.7.2000 and is continuing till date.

12. It was also pleaded by respondent No.4 that it was under the bona fide belief and impression that the affiliation will be granted as was being granted earlier to this Institute. It was further pleaded that no candidate was sponsored though common entrance test was conducted and since no candidate was sponsored, respondent No.4 was left with no option but to conduct the entrance test at its own level and the merit was drawn resulting in admission of students for 2003-04 batch. It was pleaded that several requests have been made by respondent No.4 for conducting the test for starting the process of admissions but no students were sponsored to the institute of respondent No.4.

13. Similar replies were filed by the respondents as in the above case.

14. We have heard the learned counsel for the parties and have gone through the record of the case.

15. The first plea raised by the learned counsel for respondent No.4/Institute was that once after inspection of the Institute, the recognition had been granted to respondent No.4/Institute by NCTE, no further conditions could be imposed by the H.P. Board of School Education/respondent No.5 or the State Government/respondent No.1 for affiliation of this Institute. It was submitted that once the recognition had been granted to respondent No.4/Institute, respondents No.1 and 5 were liable to grant affiliation and were required to send the students for training in the Institute and since this was not done by respondents No.1 and 5 inspite of letter written to them and the application submitted to them, therefore, respondent No.4 is not liable for non-holding of

the examination for JBT courses for the petitioners. The copies of the orders issued by NCTE granting recognition to respondent No.4 have been placed on record as Annexure PA, dated 26th June, 2003, which was for JBT course of two years duration for the academic sessions 2003-04. This fact has not been disputed by respondents No.1 and 5 that NCTE had granted recognition to respondent No.4 for a period of two years for academic sessions 2003-04.

16. A question arises as to whether after the recognition has been granted by NCTE, whether some conditions could be imposed for affiliation by the H.P. Board of School Education/respondent No.5 or the State Government/ respondent No.1.

17. The learned counsel for respondent No.4 had relied upon the decision in the following cases.

18. The decision in **Islamic Academy of Education and another** v. **State of Karnataka and others, (2003) 6 Supreme Court Cases 697,** was relied upon which does not apply to the present facts since the questions being considered by their Lordships were in regard to the capitation fee etc.

19. The decision in **State of Maharashtra** v. **Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others, (2006) 9 Supreme Court Cases 1**, shows that the question being considered by their Lordships was in regard to the recognition granted by NCTE and it was held that State Government could not refuse permission on the plea that it had taken a policy decision not to grant NOC to any institution for starting new BED college during the relevant academic year. It was held that the State was devoid of the power to refuse permission in such a case or to over rule the decision of NCTE. In the present case, the facts are different since the State had not refused to grant affiliation to another institute which has been granted recognition by NCTE.

20. The petitioners have placed writ reliance on a judgment delivered by a Division Bench of this Court, of which one of us (Deepak Gupta, J.) was a member, rendered in **Krishma Educational Centre vs. H.P. Board of School Education and others Latest HLJ 2007 (HP) 217**. This court in the said case held as follows:

> "11. However, on perusing Section 15 of the 1993 Act, aforesaid, the final authority, for recognition, in our opinion, lies with the NCTE in the light of relevant provisions of the Act and the appropriate authority to take decision regarding opening of new educational institutes is NCTE. Neither the State nor the University or Board can act contrary to the decision of NCTE, they are supposed only to implement the decision of NCTE and in this behalf, we are supported mutatis-mutandis by the view taken by the Supreme Court in **State of Maharashtra vs. S.D.S.S. Mahavidyalaya 2006 (3) Scale 675.** Which has categorically held that the final decision can only be taken by the NCTE and once the decision is taken by NCTE, it has to be implemented by all the authorities in the light of the Act and the law declared by the Apex Court in **St.Johan Teachers Training Institute (2003) 3, S.C.C. 321.** Therefore, the absence of non-production of NOC by the Institution after the recognition has been given by NCTE is wholly immaterial and irrelevant."

21. It is no doubt true that in that case this Court held that neither the State nor the University can act contrary to the decision of the NCTE. The power of granting recognition lies with the NCTE but the NCTE may lay down certain terms and conditions. In addition thereto, the examination has to be conducted not by the NCTE but by the University or the Board of the particular State. Though the University or the Board may not have the right to hold that the recognition by the NCTE is not proper but the affiliating University or the Board can definitely ensure that its rules and guidelines, in so far as they relate to the matter of conducting of examination, syllabus etc., are complied with by the institution in question.

22. It would also be relevant to mention that in the present case, the NCTE, while granting recognition, has laid down the following conditions in Annexure PA:

> "3. Now, therefore, in exercise of the powers vested under Section 14(3) (a) of the NCTE Act, 1993, the Regional Committee hereby grants recognition to Rameshwari Teacher Training Institute, Upper H.P.S.E.B. Colony, Sarabai, Bhunter, Distt. Kullu, Himachal Pradesh-175125 for an additional intake of 50 (fifty) seats in J.B.T. course of Two year duration (total 100 seats) from the academic session 2003-2004 subject to fulfillment of the following:
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> (a) Appointment of the faculty members duly qualified and staff as per the norms of NCTE/State Govt./UGC is to be completed before the commencement of the session.
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> (b) The countersigned statement of all faculty members from the Registrar of the concerned University should be submitted before the commencement of the academic sessions 2003-04.
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> 4. Recognition is subject to the condition that the affiliating University shall ensure that, among other things, the institution has appointed required number of faculty members (including Principal/Head of Department), as per the norms of the NCTE/UGC/Affiliating University.
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> 5. Further, the recognition is subject to fulfillment of all such other requirements as may be prescribed by other regulatory bodies like UGC and State Government, etc."

23. A perusal of Annexure PA relevant portion of which has been quoted here-in-above clearly shows that the recognition was granted subject to the condition that the affiliating university shall ensure that the Institution has appointed required number of faculty members as per the norms of the NCTE/UGC/affiliating university. It was also provided therein that the recognition was subject to fulfillment of such other requirements as may be prescribed by other regulatory bodies like UGC and State Government. The authority cited is, therefore, distinguishable on facts and has no applicability to the facts of the present case. Thus, it is clear that once recognition was granted by the NCTE, it was not end of the matter and respondent No.4 was required to apply for

affiliation to respondent No.5 and was also required to comply with the directions in regard to faculty members and other requirements as the recognition granted by NCTE was subject to these conditions and no such plea can be taken by respondent No.4 that it was not liable to comply with any such instructions or directions issued by respondents No.1 and 5.

24. A perusal of the record shows that respondent No.4 had filed an application for inspection of its institute by an expert committee and this court, vide its order dated 19.7.2005, had appointed a multi member committee consisting of Deputy Commissioner Kullu, Superintending Engineer, HPPWD, Kullu and Deputy Director, Primary Education, Kullu to inspect the Institute and submit a detailed report. This committee was appointed in pursuance of the application filed by respondent No.4 since some objections had been raised by respondent No.5 that respondent No.4 was not an Institute having all the requisite infrastructure and since respondent No.4 was not satisfied of the report of the Committee appointed by respondents No.1 and 5, this application was filed by respondent No.4 and appointment of all the members of the Committee was made by this court in presence of counsel for parties including respondent No.4. However, after the report was submitted by the Committee and they also pointed out some shortcomings, detailed objections were filed to the said report by respondent No.4. During the course of arguments, the report made by the expert committee appointed by the court was also challenged by referring to the objections in detail. The learned counsel for respondent No.4, during the course of arguments, had also challenged the competence of the three member committee to make inspection and make a report accordingly.

25. It does not lie in the mouth of respondent No.4 to claim that the persons appointed were not experts or were not competent to make any such report

since these appointments were made on his application and the names of the persons were decided by the court after hearing the learned counsel for the parties including the counsel for respondent No.4 Therefore, no such submissions can be accepted in regard to the competence of the Committee that they were not competent or that the recommendations made by them could not be accepted by the court. In our view, the basic requirement of infrastructure etc. is as per the norms fixed by respondents No.1 and 5 and the requirement is as per expert committee i.e. of respondents No.1 and 5. This court is not required to consider in detail on all points in regard to expert committee appointed by the court since it was for respondents No.1 and 5 to be satisfied on the basis of the report of their expert committee that the shortcomings are removed by respondent No.4. In view of the fact that respondent No.4 had challenged the findings of the Committee appointed by respondents No.1 and 5, this court had appointed the Committee of experts and no arguments can be heard in regard to their capacity or the report submitted by them, suffice to say that this report also pointed out to some shortcomings. It was also within the competence of the respondents No.1 and 5 to direct respondent No.4 to remove the shortcomings which were required to be removed by him rather than challenging the report of the expert committee of respondents No.1 and 5 or that of expert committee appointed by this court. The net result remains the same that both the committees have found some shortcomings and, therefore, no affiliation was granted to respondent No.4/Institute. Moreover, there is no question of the grant of affiliation once the application was not submitted by respondent No.4 within the time fixed i.e. by 31st May or with late fee upto 30th June, but it was submitted in November, 2005 and that application was returned to respondent No.4 having been filed at a belated stage. The second application

submitted was also returned with draft dated 4.3.2004 vide Annexure R-5/7 having been filed at a belated stage. The net result is the same that no affiliation was granted by respondents No.1 and 5 to respondent No.4/Institute.

26. There is no dispute in regard to the fact that respondent No.4/Institute was not competent to select the candidates for the two years JBT course which candidates were to be selected by respondent No.5 Board by a common entrance test and the candidates were to be sponsored to respondent No.4 by respondent No.5 Board. This fact was admitted very clearly by respondent No.4/Institute in his reply that the selection was to be made by the Board and they were to sponsor the candidate for admission to the Course.

27. Therefore, respondents No.1 and 5 had not sent any students for admission to respondent No.4/Institute after conducting the joint test as has come up on record. A perusal of the record shows that once no students were sent to respondent No.4, he took students for admission out of his own accord and only he wrote to respondents No.1 and 5 that he is making selection, though as per the rules which were in force, the joint entrance test was to be taken by respondent No.5 and students were to be sponsored or allocated by respondent No.5 only. Respondent No.4 was not competent to take entrance test himself for the JBT course for which even the affiliation had not been granted by the respondent No.5/Board.

28. From whichever angle the plea raised by respondent No.4 is viewed, it is clear that it was never granted affiliation by respondent No.5 since no application was presented in time which was returned to him twice and he never applied again or took steps to remove the deficiencies pointed out earlier and as such respondent No.4 was not competent, as per the rules, to admit the students himself. Once no students had been sent to respondent No.4 after holding of

the examination for entrance test by respondent No.5, respondent No.4 could have filed a writ petition in this court or sought an appropriate remedy from any civil court seeking directions to be issued to respondent No.5 for sending the students to respondent No.4/Institute, which was never done, but they were not competent to admit the students themselves. Thus, there is no merit in the case put up by respondent No.4 by filing two writ petitions mentioned above seeking directions to respondents No.1 and 5 for granting affiliation to respondent No.4-Institute for which there was not even a proper application submitted to them. Therefore, directions cannot be issued to respondents No.1 and 5 for sending the students to respondent No.4/Institute in the absence of affiliation and as such there is no merit in two writ petitions filed by respondent No.4 seeking directions from this court to respondents No.1 and 5 to grant affiliation to respondent No.4/Institute.

29. In so far as the case of the petitioners is concerned, who were admitted by respondent No.4 by issuing advertisement in newspaper dated 15.1.2004 as per Annexure R-II for which respondent No.4 was duly informed by respondent No.5 as per Annexures R-III, IV & V, dated 16.1.2004, February 2004 and March 2004 that they are not competent to admit the students in the absence of affiliation. However, respondent No.4 went ahead and admitted the students by conducting the entrance examination, but since this was against the procedure, therefore, the petitioners were not permitted to appear in the examination and resultantly, their whole year had been spoiled due to an illegal act and conduct of respondent No.4.

30. It would be pertinent to mention that earlier also some students of the Rameshwari Teacher Training Institute had filed petitions for grant of similar relief. The judgment in these petitions is reported in **Leena and others vs.**

State of H.P. and others, 2006 (1) Shim. LC 358. The petitioners in that case were granted admission in two years JBT course in the Institution for the session 1999-01. At that time, the Institution was neither recognized by the NCTE nor affiliated to any examining body. The Institute admitted 160 students for the two year JBT course for the academic sessions 1999-01 of its own accord. The Board refused to conduct the examination on the ground that the Institute was neither affiliated to nor recognized by the NCTE and on the ground that the Institute while admitting the petitioners did not follow the prescribed rules and regulations. In that case also the students had sought regularization of their admissions and prayed that the result of the JBT Batch for the admitted academic sessions 1999-01 be declared. This court after going through all the contentions held as follows:

> "42. In view of the record noticed above there is no scope of dispute that the Institute neither sought nor was granted affiliation by the Board for the Academic Session 2002-2004 and therefore, the Board was neither obliged nor legally competent to conduct the examination of a student of any Teachers Training Institution which is not affiliated to the Board.
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> 43. This Court, in view of the settled position of law, noticed above, cannot issue directions, in its jurisdiction under Article 226 of the Constitution, which violates express provisions of the Act and the regulations framed there under. However, in view of the observations of the Supreme Court in M.L.R. Saraswati College of Education that the Courts should evolve a mechanism for awarding damages to the students whose careers are seriously jeopardized by unscrupulous management of college/schools which indulge in violation of rules, we are inclined to award damages to all the petitioners."

31. A perusal of the above decision further shows that in that case also the petitioners were students and the same institute i.e. Rameshwari Teacher Training Institute, Bhuntar Kullu was involved and the petitioners had claimed the relief that the Principal of this institute should be permitted to declare the result of the petitioners who were admitted to the institute for the two years JBT

course for the academic session 1999-01 and for direction to the State Government and H.P.Board of School Education.

32. On perusal of the aforesaid judgment, we find that the first of the writ petitions in question has been filed in the year 2003. In the present case, the respondent/Institute invited applications vide its advertisements issued on 15.1.2004. The Institute was informed by the Sate vide letter dated 16.1.2004 that the admission being notified by the Institute is in contravention of the terms and conditions of recognition and affiliation and, therefore, should be withdrawn. Despite this, admissions were made in the month of March, 2004. This clearly shows that respondent No. 4 institute was aware that a similar dispute had arisen earlier pertaining to the recognition or affiliation required for the institute, but still respondent No. 4 went ahead and admitted students for the admission the JBT course in March 2004 without waiting for the affiliation granted by the Board.

33. Coming to the relief to which the petitioners are entitled, it is clear that there is no merit in the two writ petitions No 251 of 2005 and 252 of 2005 filed by respondent No. 4 for giving directions to the State Government/Board to give affiliation to respondent No. 4/petitioners in those writ petitions since they never applied and never fulfilled the conditions required for affiliation and both the writ petitions filed by respondent No. 4 are liable to be dismissed, which are dismissed accordingly.

34. Coming to the relief claimed by the petitioners numbering 58 in CWP No. 170 of 2005 and relief claimed by four petitioners in CWPs No. 1231 of 2005, it is clear that these admissions were made by respondent No. 4, institute even though it was not competent to admit the students by taking Exam himself without the candidates having been sponsored by respondent No. 5 as per the

joint test and until and unless the affiliation was granted to respondent No. 4/institute. Therefore, respondent No. 4 institute unscrupulously granted admissions to the students, in violation of all the regulations, norms and statutory provisions relating to such admission for which they are liable to refund the fees taken by them from the petitioners in these two cases. This Court in the similar case had observed that the petitioners were also held entitled to damages amounting to Rs.50,000/- payable to each of the petitioners and damages are being awarded in favour of the petitioners in these two cases, which shall be payable within eight weeks from this date. These damages are being awarded by this Court after considering the pleas made by the petitioners in these two writ petitions that any appropriate order may be passed by this Court, which is just and proper in the facts and circumstances of the case and the circumstances of the case fully justified that the petitioners are entitled to the damages even though no specific prayer has been made in this regard. Respondent No. 4 is liable to return the fees taken by the petitioners in these two cases alongwith damages amounting to Rs.50,000/- to each of the petitioners, within eight weeks from today. In case fees are not refunded and damages are not paid, the petitioners shall be at liberty to execute the order for the refund of the fees and damages. There is no order as to costs. These two petitions only stand allowed accordingly.

A certified copy of this judgment be placed on the records of CWPs No.1231 of 2005, 251 of 2005 and 252 of 2005.

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In view of the final disposal of these writ petitions, all the pending applications in all the CWPs, if any, also stand disposed of.

(Deepak Gupta), J.

(V.K. Ahuja), J.

July 12, 2007. (trs)